

IN THE UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

IN MARK A. JALAJEL, <i>et al.</i>	)	
	)	
Debtors	)	Docket Number 09-11453-RGM
	)	Chapter 7
	)	
RAY PUGSLEY	)	
	)	
Plaintiff	)	
v.	)	Adversary Proceeding 09-01141-RGM
	)	
MARK A. JALAJEL	)	
	)	
Defendant	)	
	)	

**MOTION FOR FINDING OF CONTEMPT  
AND APPLICATION FOR RULE TO SHOW CAUSE**

As his Motion for Finding of Contempt and Application for Rule to Show Cause,  
Plaintiff states:

1. On March 30, 2010, this Court entered an order [Docket Entry Number 30] (the “Order”) requiring, as a sanction, that Defendant make payment of \$5,000 as attorney fees (the “Award”) incurred by Plaintiff as a result of Defendant’s failure to provide discovery.
2. As of March 7, 2011, Defendant has not made payment of the Award pursuant to the Order.

Counsel Plaintiff:

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3. Plaintiff has made demand for payment of the Award pursuant to the Order; however, no payment has been made, nor have any arrangements for payment been discussed.

4. Upon this basis, Plaintiff requests that a Rule to Show Cause be issued.

5. Upon any further proceedings, Plaintiff requests that Defendant be conditionally imprisoned to provide for payment of the Award and enforcement of the Order. *Uphaus v. Wyman*, 79 S.Ct. 1040 , 1046 (1959) (Courts have power in contempt proceedings to impose conditional imprisonment to compel a person to obey a valid order. Conditional imprisonment imposed by a court in a contempt proceeding for purpose of compelling a person to obey a valid order is essentially a civil remedy designed for the benefit of others and is properly exercised to secure compliance with judicial decrees); *Ingraham v. Wright*, 430 U.S. 651, 668 (1977); *Parker v. United States*, 153 F.2d 66, 70 (1st Cir. 1946); *In re Martin-Trigona*, 732 F.2d 170, 174 (2nd Cir. 1984); and *United States v. Cunningham*, 2011 WL 11445 at \*2 (S.D. Cal 2011).

6. Plaintiff respectfully suggests that the remedy of conditional imprisonment is appropriate because no other remedy available to this Court is likely to secure payment of the Award and Compliance with the Order.

Wherefore, Plaintiff request that this Court enter a rule to show cause, or certifying this matter as appropriate, requiring Defendant to show cause, if any, he can, why he should not be adjudged to be in contempt of this Court for his failure to make payment of the Award; and that upon any adjudication that Defendant is in contempt and has not purged any contempt, that Defendant be incarcerated until such time as there shall be compliance with the Order and payment of the Award. Plaintiff further requests that this Court make an additional award of attorney fees incurred to seek enforcement of the Order and payment of the Award.

Respectfully submitted by:

/s/ John P. Forest, II  
John P. Forest, II, VSB# 33089  
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Counsel for Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that on March 8, 2011, that I have electronically transmitted a true and correct copy of this MOTION FOR FINDING OF CONTEMPT AND APPLICATION FOR RULE TO SHOW CAUSE to:

Martin J.A. Yeager, Esq.  
Bean Kinney & Korman, P.C.  
2300 Wilson Blvd., Suite 700  
Arlington, VA 22201

and that I have mailed, first class postage prepaid a true and correct copy of this MOTION FOR FINDING OF CONTEMPT AND APPLICATION FOR RULE TO SHOW CAUSE to:

Mark A. Jalajel  
4410 Coventry Glen Dr.  
Woodbridge, VA 22192

/s/ John P. Forest, II  
John P. Forest, II

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